

PROB 12C
(12/04)

UNITED STATES DISTRICT COURT
for
District of Guam

DEC 29 2005 P
29 P
MARY L.M. MORAN
CLERK OF COURT

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Kyung Shin Kim Case Number: CR 03-00058-002

Name of Sentencing Judicial Officer: Robert Clive Jones

Date of Original Sentence: April 4, 2005

Original Offense: Conspiracy to Traffic in Counterfeit Merchandise, 18 U.S.C. §§2, 371, and 2320

Original Sentence: Two years probation with conditions to include: six months home detention under the direction of the U.S. Probation Office; submit to one drug test within 15 day so of placement on probation and at least two periodic drug tests thereafter; shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon; shall cooperate with the collection of DNA as directed by the probation officer; comply with the standard conditions of supervised release as set forth by the U.S. Probation Office; perform 200 hours of community service; pay a \$100 special assessment fee; and that he be turned over to a duly authorized immigration official for deportation proceedings pursuant to 18 U.S.C. §3583(d), and with the established procedures provided by the Immigration and Naturalization Act under 8 U.S.C. §1101. As a further condition of supervised release, if ordered deported, the defendant shall remain outside of the United States and shall not re-enter the United States without the permission of the Attorney General. If deportation fails to occur and the defendant is pending any further immigration proceedings, she shall immediately report to the U.S. Probation Office to begin her term of supervised release.

Type of Probation Date Supervision Commenced: April 4, 2005

Assistant U.S. Attorney: Karon Johnson Defense Attorney: John Gorman

PETITIONING THE COURT

- To issue a warrant
 To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

Violation Number Nature of Noncompliance

1. Failure to comply with the probation officer's instructions and return to the judicial district on October 28, 2005.

U.S. Probation Officer Recommendation:

The term of supervision should be

revoked.

extended _____ years, for a total term of _____ years.

The conditions of supervision should be modified as follows:

*Please see attached Declaration in Support of Petition written by
U.S. Probation Officer Judy Anne L. Ocampo.*

Reviewed by:

Reviewed by:

I declare under penalty of perjury
that the foregoing is true and
correct.

Karon V Johnson
ROSSANNA VILLAGOMEZ-AGUON
U.S. Probation Officer
Supervision Unit Leader

Date: 12/16/05

KARON V. JOHNSON
Assistant U.S. Attorney

Date: 12/19/05

Judy Anne L. Ocampo
JUDY ANNE L. OCAMPO
U.S. Probation Officer

Executed on: 12/16/05

THE COURT ORDERS:

- No action.
 The issuance of a warrant.
 The issuance of a summons.
 Other

RECEIVED
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DISTRICT COURT OF GUAM
HAGATNA, GUAM

L. S. G. H.
FRANCES TYDINGCO-GATEWOOD, Designated
~~Judge~~ ~~Signature of XXXXXXXXX~~ Judge

DEC 29 2005

Date

VIOLATION WORKSHEET

1.	Defendant	<u>Kyung Shin Kim</u>
2.	Docket Number (Year-Sequence-Defendant No.)	<u>CR 03-000058-002</u>
3.	District/Office	<u>Guam</u>
4.	Original Sentence Date	<u>4</u> / <u>5</u> / <u>05</u> <small>month day year</small>

(If different than above):

5. Original District/Office N/A

6. Original Docket Number (Year-Sequence-Defendant No.) N/A

7. List each violation and determine the applicable grade (see §7B1.1(b))

Violation(s)	Grade
● Failure to follow instructions of the probation officer.	C
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8.	Most Serious Grade of Violation (see §7B1.1(b))	C
9.	Criminal History Category (see §7B1.4(a))	I
10.	Range of Imprisonment (see §7B1.4(a))	3 - 9 months

11. Sentencing Options for Grade B and C Violations Only (Check the appropriate box):

- (a) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is at least one month but not more than six months, §7B1.3(c)(1) provides sentencing options to imprisonment.

(b) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than six months but not more than ten months, §7B1.3(c)(2) provides sentencing options to imprisonment.

(c) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than ten months, no sentencing options to imprisonment are available.

Mail documents to: United States Sentencing Commission, Federal Judiciary Building, One Columbus Circle, N.E., Suite 2-500, Washington, D.C. 20002-8002

Defendant: Kyung Shin Kim

12. Unsatisfied Conditions of Original Sentence

List any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation (see §7B1.3(d)):

Restitution (\$)	<u>N/A</u>	Community Confinement	<u>N/A</u>
Fine (\$)	<u>N/A</u>	Home Detention	<u>102 days</u>
Other	<u>183 hrs community service</u>	Intermittent Confinement	<u>N/A</u>

13. Supervised Release

If probation is to be revoked, determine the length, if any, of the term of supervised release according to the provisions of §§5D1.1-1.3 (see §§7B1.3(g)(1)).

Term: 2 to 3 years.

If supervised release is revoked and the term of imprisonment imposed is less than the maximum term of imprisonment imposable upon revocation, the defendant may, to the extent permitted by law, be ordered to recommence supervised release upon release from imprisonment (see 18 U.S.C. §3583(e) and §7B1.3(g)(2)).

Period of supervised release to be served following release from imprisonment: 36 months

14. Departure

List aggravating and mitigating factors that may warrant a sentence outside the applicable range of imprisonment:

15. Official Detention Adjustment (see §7B1.3(e)): months days

Mail documents to: United States Sentencing Commission, Federal Judiciary Building, One Columbus Circle, N.E. Suite 2-500, Washington, D.C. 20002-8002

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF GUAM**

UNITED STATES OF AMERICA) CRIMINAL CASE NO. 03-00058-002
Plaintiff,)
vs.)
KYUNG SHIN KIM,)
Defendant.)

DECLARATION IN SUPPORT OF PETITION

Re: Violation of Supervised Release Conditions; Warrant requested.

I, U.S. Probation Officer Judy Anne L. Ocampo, am the U.S. Probation Officer assigned to supervise the Court-ordered conditions of supervised release for Shou Hua Wu, and in that capacity declare as follows:

Kyung Shin Kim was sentenced on April 4, 2005 for Conspiracy to Traffic in Counterfeit Merchandise, 18 U.S.C. §§2, 371, and 2320. She is alleged to have violated the following conditions of probation:

Standard Condition: *The defendant will not leave the judicial district without the permission of the Court or the probation officer.*

Standard Condition: *The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.*

On September 22, 2005, Ms. Kim was granted permission to travel to Seoul, South Korea, for dental treatment for her daughter and herself. She also intended to leave her two daughters, five-year-old Naomi Lee and three-year old Hannah Lee, in Korea with her parents until she satisfied her home confinement condition. Ms. Kim departed on September 27, 2005 and was supposed to return to Guam on October 28, 2005. On October 28, 2005, this Officer received a voice mail message from Ms. Kim, who indicated that she was not allowed to return to Guam as her visa was not renewed. Ms. Kim provided a telephone number, however, attempts to contact her there have been unsuccessful.

On November 3, 2005, this Officer spoke with Special Agent Nicolas Haney, Bureau of Immigration and Customs Enforcement, who related that information on Ms. Kim was unavailable. He advised this Officer to contact the Korean Embassy in Seoul, Korea. On that same day, the Korean Embassy was contacted. To date, this Officer is awaiting a response from the Korean Embassy.

On December 1, 2005, this Officer conducted a home visit to Ms. Kim's residence, however, there was no one home. On December 2, 2005, Mrs. Sung Soo Kim, an elder at Ms. Kim's church and who oversaw Ms. Kim's community service, related that she was under the impression that Ms. Kim would not return to Guam.

DECLARATION IN SUPPORT OF PETITION

Violation of Supervised Release Conditions; Warrant Requested

Re: KIM, Kyung Shin
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December 16, 2005
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Supervision Compliance: On April 4, 2005, Ms. Kim paid her \$100 special assessment fee. She has completed 17 hours of community service at her church. Prior to her departure, Ms. Kim was serving her home confinement requirement had served 78 days and made payments for her participation in the program. Ms. Kim submitted her monthly reports in a timely manner.

Recommendation: This probation officer respectfully requests that the Court issue a Warrant for Kyung Shin Kim to order her to appear at a scheduled hearing to answer or show cause why her term of probation should not be revoked. It is also recommended that the District Court issue an order that the defendant's release term be tolled.

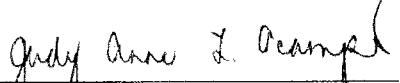
Executed this 16TH day of December 2005, at Hagatna, Guam, in conformance with the provisions of 28 U.S.C. § 1746.

I declare, under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.

Respectfully submitted,

FRANK MICHAEL CRUZ
Chief U.S. Probation Officer

By:


JUDY ANNE L. OCAMPO
U.S. Probation Officer

Reviewed by:


ROSSANNA VILLAGOMEZ-AGUON
U.S. Probation Officer
Supervision Unit Leader

cc: Karon Johnson, AUSA
John Gorman, Defense Counsel
File